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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/589,551 | 06/07/2000 | Thomas L. DiStefano III | 6676-11 | 8542 |

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/589,551

Applicant(s)

DISTEFANO, THOMAS L.

Examiner

DANIEL LASTRA

Art Unit

3622


--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 17 January 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):


RETTA YENDEGE
PRIMARY EXAMINER

Appellants filed an Appeal brief under the rules set forth in 37 CFR § 1.192(c). However, the rules under 37 CFR § 1.192(c) were abolished on September 13, 2004, and replaced by 37 CFR § 41.37(c). For more information on board new rules, please see the webpage entitled "More information on the Rules of Practice Before the BPAI" Final rule at :<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>.

The brief must contain the following items (§ 41.37(c)):

vi. Grounds of rejection to be reviewed on appeal (replacing "issues for review" and "grouping of claims").

Example: Claims 1 to 10 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. X.

ix. Evidence appendix (new)

Copies of any evidence entered and relied upon in the appeal.

x. Related proceedings appendix (new)

Copies of decisions rendered by a court or the Board in any proceeding identified in the related appeals and interferences section.

The Applicant needs to change the title of part VI. "Issues to be reviewed on Appeal" to "Grounds of rejection to be reviewed on appeal" and also change the title "The Argument" to "Argument".

Also, the Applicant needs to put in a new page the section IX. Evidence appendix and also in a new page the section with the heading X. Related proceeding appendix. Proper correction is required.